

State of New Hampshire Banking Department

In re the Matter of: ) Case No.: 07-034  
)  
State of New Hampshire Banking ) Notice of Hearing - Order to Show  
) Cause with Immediate Suspension  
Department, )  
)  
Petitioner, )  
)  
and )  
)  
Cashforce USA Inc., Michael Melody )  
)  
and Daniel Melody, )  
)  
Respondents

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NOTICE OF HEARING

Pursuant to RSA 399-A:8, the Banking Department of the State of New Hampshire (hereinafter the "Department") has the authority to issue and cause to be served an order requiring any person engaged in any act or practice constituting a violation of RSA 399-A or any rule or order thereunder, to cease and desist from violations of RSA 399-A.

Pursuant to RSA 399-A:18, the Commissioner has the authority to suspend, revoke or deny any license and to impose administrative penalties of up to \$2,500.00 for each violation of New Hampshire banking law and rules.

Pursuant to RSA 399-A:7 the Commissioner may take action to immediately suspend a license within the confines of RSA 541-A.

The Department issued to the Respondents an Order to Show Cause and an immediate suspension of the license of Respondent Cashforce USA Inc. on

1 February 6, 2007. RSA 541-A requires the Department to hold a hearing on  
2 such summary action within ten working days.

3  
4 The Department alleges the following:

5 **Issue 1:** Violation of Commissioner's Order

6 Accordingly, an adjudicative proceeding shall be commenced pursuant to  
7 541-A:31 and Chapter 200 of the Department's rules (NH Code of Administrative  
8 Rules BAN 200) for the purpose of permitting the Respondent to show  
9 compliance with RSA 399-A.

10 Each party has the right to have an attorney present to represent the  
11 party at the party's expense, or may represent itself. Each party has the  
12 right to have the Department provide a certified shorthand court reporter at  
13 the requesting party's expense. Any such request must be submitted in  
14 writing to the Department at least 5 days prior to a scheduled hearing date.

15 THEREFORE, IT IS ORDERED, that the Respondents appear before the New  
16 Hampshire Banking Department on February, 15, 2007 at 10:00am, at the  
17 Department's offices at 64B Old Suncook Road, Concord, New Hampshire, for the  
18 purpose of participating in an adjudicative proceeding, at which time the  
19 Respondents will have the opportunity to demonstrate why their license should  
20 not be revoked and fines imposed; and

21 IT IS FURTHER ORDERED, that if the Respondent elects to be represented  
22 by Counsel, said Counsel shall file notice of appearance at the earliest  
23 possible date; and

24 IT IS FURTHER ORDERED, that James Shepard, Staff Attorney, New  
25 Hampshire Banking Department is designated as Hearing Counsel in this matter  
with authority to represent the public interest within the scope of the

1 Department's authority. Hearing Counsel shall have the status of a party to  
2 this proceeding; and

3 IT IS FURTHER ORDERED, that the Commissioner shall designate a  
4 Presiding Officer in this proceeding who shall issue a RECOMMENDED DECISION  
5 in this matter which shall be reviewed and approved, disapproved or modified  
6 by the Bank Commissioner; and

7 IT IS FURTHER ORDERED, that any proposed exhibits shall be pre-marked,  
8 for identification only, and filed with the Department and provided to the  
9 opposing party as soon as possible. Hearing Counsel shall pre-mark the  
10 Department's exhibits with Arabic numbers. The Respondents shall pre-mark  
11 exhibits with capital letters. An index/list of exhibits providing a brief  
12 description of each exhibit with its corresponding pre-marked number or  
13 letter shall be filed by both parties simultaneous with the filing of  
14 exhibits; and

15 IT IS FURTHER ORDERED, that the parties shall exchange a list of all  
16 exhibits and witnesses to be called at the hearing with a brief summary prior  
17 to close of business on February, 14, 2006, and shall at the same time file a  
18 copy of their respective witness lists with the Presiding Officer; and

19 IT IS FURTHER ORDERED, that all periods referenced in this notice shall  
20 be calendar days. If the last day of the period so computed falls on a  
21 Saturday, Sunday, or legal holiday, then the time period shall be extended to  
22 include the first business day that is not a Saturday, Sunday, or legal  
23 holiday; and

24 IT IS FURTHER ORDERED, that the Department shall have the burden of  
25 setting forth a *prima facie* case, then the Respondents shall have the burden of  
showing compliance with applicable law by a preponderance of the evidence;

IT IS FURTHER ORDERED, that Respondents' failure to appear at the time,  
date, and place specified may result in the hearing being held *in absentia*

1 and/or default ruling in favor of the Department, without further notice or  
2 opportunity to be heard; and

3 IT IS FURTHER ORDERED, that the entirety of all oral proceedings shall be  
4 recorded verbatim by the Banking Department. Upon request of any party, or  
5 upon the Presiding Officer's own initiative, such record shall be transcribed  
6 by a certified court reporter designated by the Presiding Officer, and that all  
7 costs shall be borne solely by the requesting party. Any such request shall be  
8 submitted in writing to the Presiding Officer prior to hearing.

9 IT IS FURTHER ORDERED, that all documents shall be filed with the  
10 Presiding Officer in the form of an original and one (1) copy and shall bear a  
11 certification that a copy is being delivered to Hearing Counsel and any other  
12 parties to this matter in accordance with NH Code of Administrative Rules Ban  
13 204.08. All documents shall be filed by mailing or delivering them to the New  
14 Hampshire Banking Department, ATTN: Presiding Officer 07-034, 64-B Old Suncook  
15 Road, Concord, NH 03301. Filing by facsimile or electronic transmission shall  
16 not be accepted; and

17 IT IS FURTHER ORDERED, that the parties may submit Proposed Orders, which  
18 shall include findings of fact and conclusions of law, separately stated, no  
19 later than ten (10) days following conclusion of the hearing(s) in this matter;  
20 and

21 IT IS FURTHER ORDERED, that routine procedural inquiries may be made by  
22 telephoning Maryam Torben-Desfosses at (603)-271-3561, but all communications  
23 with the Presiding Officer and all other communications with the Department  
24 shall be in writing and shall be filed as provided above. *Ex parte*  
25 communications are forbidden by statute; and

IT IS FURTHER ORDERED, that a copy of this Notice of hearing shall be  
served to the licensee, mailed to John Kalled, Counsel for Respondents, and  
that a copy shall also be delivered to James Shepard, Hearing Counsel, and to  
the Presiding Officer, at the New Hampshire Banking Department.

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2  
3 SO ORDERED,  
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5 /s RAF for/  
6 Peter C. Hildreth  
7 Commissioner  
8 State of New Hampshire  
9 Banking Department  
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February 7, 2007  
Date